IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 45 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR
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1.   Whether Reporters of Local Papers may be allowed
        to see the judgements?

2.   To be referred to the Reporter or not?

3.   Whether Their Lordships wish to see the fair copy
        of the judgement?

4.   Whether this case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?

5.   Whether it is to be circulated to the Civil Judge?

        MUKTAK NAVNTILAL KAPADIA
Versus
        STATE OF GUJARAT

        Appearance:
            MR KJ SHETHNA for Petitioner
            Mr M A Bukhari, APP for Respondent No. 1

        CORAM : MR.JUSTICE N.N.MATHUR
        Date of decision: 28/02/97

ORAL JUDGEMENT

        Heard the learned Advocate for the applicant. It is not
        in dispute that the petitioner was granted Anticipatory
        Bail by this Court in Criminal Revision Application
        No.242/97 on 15.1.1997.   While granting Anticipatory
        Bail, this Court gave liberty to the police to apply for
        remand if necessary. The police, taking advantage of
        this condition, applied before the learned Magistrate for

remand. The learned Magistrate, by order dated 28.1.1997 granted remand upto 30.1.1997. This application is being opposed by the learned APP as well as the learned Advocate for the complainant. At the outset, I may mention that in a matter of remand, the complaint has no say. It is a matter between the Investigating Agency and the Court. Having read the order of the learned Magistrate, I am of the view that the order of granting remand is totally unjustified. The learned Magistrate ought to have taken care that the High Court, considering the facts of the case, granted anticipatory bail. It is true that liberty was given to the police to apply for remand, but in such cases only in rare case, such clause should be pressed into service.

2. In view of the aforesaid, this Criminal Revision Application is allowed. The impugned order dated 28.1.1997 granting remand is quashed and set aside. Rule made absolute accordingly.

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